

a mortgage of personalty, *Alexander v. Ghiselin*, 5 Gill, 138, see the note, however, to 13 Eliz. c. 5.⁵⁵ And an agreement to convey an equity of redemption must also be in writing, for a Court of Chancery treats the equity of redemption as the land itself, at all events as an interest in land, *Massey v. Johnson*, 1 Exch. 241, and *a fortiori* is this so with us.⁵⁶ Sales at auction are also within the Statute, *Keys v. Goldsborough's lessee*, 2 H. & J. 369; *Singstack v. Harding*, 4 H. & J. 186, the Court in the latter case holding that the auctioneer was the agent of both parties, and that the entry of the purchaser's name in the auction-book was sufficient to bind him, there being no distinction between a memorandum in writing for the sale of chattels and the sale of lands.⁵⁷ This is, of course, only where the conditions of sale and the description of the premises are sufficiently contained or referred to in the auction-book, in which case the entry of the name of the bidder, though only an agent, will bind his principal, *Kenworthy v. Schofield*, 2 B. & C. 945. However, it is held that the auctioneer is not the agent of the bidder, till the lot is knocked down, *Warlow v. Harrison*, 28 L. J. Q. B. 18, and as soon as the sale is over he is the agent of the seller only, *Mews v. Carr*, 1 Hurl. & N. 484; and, generally, the agent contemplated by the 17th section must be a third person and not the other contracting party to the record, *Wright v. Danah*, 2 Camp. 203,⁵⁸ *Farebrother v. Simmons*, 5 B. & A. 333, where the action was brought in the name of the auctioneer who had signed the defendant's name, and his entry was held not sufficient to take the case out of the Statute. But in *Stoddert v. Vestry, &c.*, 2 G. & J. 227, which was an action to recover the price of a pew, at the sale of which one of the vestry acted as auctioneer, the Court said that there could be no question

by the wife with her husband that if he bought a house she would repay him is not within the Statute, since the contract imposed no obligation on the husband to make the purchase. *Boston v. Boston*, (1904) 1 K. B. 124. See also *Angell v. Duke*, L. R. 10 Q. B. 174; *Morgan v. Griffith*, L. R. 6 Ex. 70.

⁵⁵ See note 16 to 13 Eliz., c. 5, and note 19 to 27 Eliz., c. 4.

⁵⁶ *Morgart v. Smouse*, 103 Md. 466; *Polk v. Reynolds*, 31 Md. 106.

⁵⁷ *Moore v. Taylor*, 81 Md. 644; *In re Roberts*, 36 Ch. D. 196. The authority of an auctioneer to sign as agent for the purchaser cannot be executed a week after the sale; *Bell v. Balls*, (1897) 1 Ch. 663; *Peirce v. Corf*, L. R. 9 Q. B. 214. Cf. *Sims v. Landray*, (1894) 2 Ch. 318; *Van Praagh v. Everidge*, (1903) 1 Ch. 434. In *Johnston v. Boyes*, (1899) 2 Ch. 73, it was held that a vendor who offers property for sale at auction on terms of printed conditions is liable to one who accepts the offer, if the conditions are violated; and that the Statute is no defence, since the plaintiff in such case does not sue on a contract to purchase land, but only because he is not allowed to sign a contract which would result in his becoming a purchaser.

As to sales of goods by auction, see sec. 39 of the Sales Act of 1910, (Code 1911, Art. 83, sec. 42.)

⁵⁸ *Sharman v. Brandt*, L. R. 6 Q. B. 720.